Compilation Number	Ordinance Number	Subject
3-1	[Repealed]	
3-2	[Repealed]	
3-3	[Repealed]	
3-4	[Repealed]	
3-5	[Repealed]	
3-6	[Repealed]	
3-7	[Repealed]	
3-8	**1866 as amended by 1933 1973, 1975, 2008**	**Water Regulations and Rates**
3-9	[Repealed]	
3-10	**1965 as amended by 2008**	**Sewer and Water Regulations**
3-11	**2070 as amended by 2251**	**System Development Charges for Water, Sewer and Parks and Recreation**
3-12	**2111 as amended by 2154 and 2249**	**Traffic Impacts Fees and 2249 System Development Charges for Stormwater Drainage**
3-13	**2248**	**Methodology for Traffic Impact Fees System Development Charges.**
3-14	**2250**	**Methodology for Parks & Recreation System Development Charges**

ORDINANCE NO. 1866

AN ORDINANCE ESTABLISHING REGULATIONS AND RATES FOR THE CITY WATER SYSTEM; AND REPEALING ORDINANCE NO. 1378, 1595, 1596, 1622 AND 1804.

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions.

(1) Customer. The owner of property which is served by the City water system. A person, corporation, association or agency which rents or leases premises shall be considered an agent of the property owner.

(2) Mains. Distribution pipe lines that are part of the City water system.

(3) Premises. The integral property or area, including improvements thereon, to which water service is or will be provided.

(4) Service Connection. The pipe, valves and other equipment by means of which the City conducts water from its mains to and through the meter to the property line, but not including piping from the property line to the premises served.

Service Provided

Section 2. Regular Service.

(1) The City shall furnish and install a service connection of such size and location as a customer requests, provided that the request is reasonable. The service will be installed from the main to a point between the curb line and the property line of the premises if the main is in the street, or to a point in a City right-of-way or easement.

(2) The customer shall, at his own risk and expense, furnish, install and keep in good and safe condition equipment that may be required for receiving, controlling, applying and utilizing water. The City shall not be responsible for loss or damage caused by the improper installation of the equipment, or the negligence, want of proper care or wrongful act of the customer in installing, maintaining, using, operating or interfering with the equipment.

(3) The City shall not be responsible for damage to property caused by a spigot, faucet, valve or other equipment that is open when the water is turned on at the meter.

(4) A customer making any material change in the size, character or extent of the equipment or operation utilizing water service, or whose change in operations results in a large increase in the use of water, shall immediately give the City written notice of the nature of the change and, if requested, amend his application.

(5) The service connection, whether located on public or private property, is the property of the City; and the City reserves the right to repair, maintain and replace it.

Section 3. Temporary Service.

(1) Charges for water furnished through a temporary service connection shall be the established rates for other customers.

(2) The applicant for temporary service will be required:

(a) To pay to the City, in advance at the option of the City, the estimated cost of installing and removing the facilities to furnish the service.

(b) To deposit an amount sufficient to cover bills for water during the entire period temporary service may be used, or to establish credit approved by the City.

(c) To deposit with the City an amount equal to the value of equipment loaned by the City. This deposit shall be refundable, less cost of any necessary repairs as provided in Subsection (3).

(3) The customer shall use all possible care to prevent damage to the meter or other equipment loaned by the City which are involved in furnishing the temporary service from the time they are installed until they are removed, or until 48 hours notice in writing has been given to the City that the contractor or other person is through with the meter and other equipment. If the meter or other equipment is damaged, the cost of making repairs shall be paid by the customer.

(4) Temporary service connections shall be disconnected and terminated within six months after installation unless an extension of time is granted in writing by the City.

Meters

Section 4. Meters.

(1) Meters shall be furnished and owned by the City.

(2) No rent or other charges shall be paid by the City for a meter or other equipment located on the customer's premises.

(3) Meters may be sealed by the City at the time of installation, and no seal shall be altered or broken except by one of its authorized agents.

(4) If a change in size of a meter and service is required, the installation shall be accomplished on the basis of a new connection.

Section 5. **Meter Error**. A customer may request the City to test the meter serving his premises. The customer shall deposit an amount to cover the reasonable cost of the test. This deposit will be returned if the meter is found to register more than 2 per cent fast. The deposit required of a customer requesting a meter test shall be as follows:

5/8 inch - 3/4 inch	$ 20.00
1 inch	30.00
1-1/2 inch	65.00
2 inch	100.00
3 inch	130.00
4 inch	150.00
6 inch	165.00
8 inch	175.00

Fees, Charges and Rates

Section 6. **Applications**.

(A) All water service connections, installations and alterations in the City shall be initiated by written application of each water customer. Each application shall be filed with the City and shall be accompanied by full payment of a water service installation charge and a water systems capacity fee in the amounts required by this ordinance.

(B) The Council may establish by motion a policy of connecting to an undersized main and recovery of associated costs. Yearly increases may be added to the established costs.

Section 7. **Water Service Installation Charges**.

(1) The water service installation charges in the City shall be as follows:

(a) For installation of a 3/4-inch service line and a 5/8-inch water meter: $150.00.

(b) For installation of a 1-inch service line, including meter: $300.00

(c) For installation of 1-1/2-inch and larger service lines and meters, the charge shall be actual cost of labor and materials furnished by the City, plus 15 per cent of said cost for administrative and overhead expense. Each [applicant] shall deposit the amount estimated by the water division with the application, and the final amount may be adjusted after installation is completed.

(2) All payments received by the City under the provisions of this section shall be deposited in, and credited to, the water fund of the City.

Section 8. Water System Capacity Fee.

(1) The water system capacity fee of the City shall be as follows:

(a) For single-family dwellings, trailers, manufactured dwelling units: $750.00.

(b) (i) For apartments and other multiple-family dwellings: $750.00 for the first unit and $375.00 for each unit in excess of one.

(b) (ii) For motel, hotel and R.V. park units: $750.00 for the first unit and $210.00 for each unit in excess of one.

(c) All other structures and facilities shall be charged according to options below:

(i) Requiring meter sizes up to 1½ inches: $750.000 plus $30.00 for each 1,000 square feet of area, or portion thereof, in excess of 2,000 square feet.

(ii) Requiring meter sizes above 1½ inches:

Size of Meter	System Capacity Fee
2"	$ 1,200.00
3"	2,625.00
4"	4,500.00
6"	9,750.00
Above 6"	Council approval necessary

(iii)The demand increase by a larger size meter will require an amount equal to the new size fee less the old size fee.

(d) No system capacity fee shall be charged to the services used for fire protection only, if the regular system capacity fee has been charged to serve the premises.

(e) All existing structures constructed prior to May 1977, and remaining on the same site to which the City was unable to provide a connection shall be charged greater of one-half the rate outlined above, or $375.00.

(2) All payments received by the City under the provisions of this section shall be deposited in, and credited to, the Capital Improvement Water Fund. [Section 8 amended by Ordinance No. 1973, passed April 13, 1987.]

Section 9. Water Rates. The rates and charges for the supply and use of water from the water system and mains of the City of Woodburn shall be as follows:

(a) Metered Services:

Service Size (Inches)	Quantity Allowed (Cubic Feet)	Minimum Monthly Charge (Dollars)
5/8" - 3/4"	400	$4.50
1"	800	6.80
1-1/2"	1,800	12.20
2"	3,200	19.95
3"	7,500	41.55
4"	15,000	83.10
6"	32,000	171.70
8"	57,000	299.10

These minimum charges are based on the size of service line, from main to meter, and entitle the user to the quantity shown per month.

(b) Water Consumed above minimum quantity allowed per month - $0.52 per 100 cubic feet.

(c-i) Single Residential: As per subsections "a" and "b" above.

(c-ii) Multiple Residential: $4.50 per unit per month in establishing the minimum for each service. Quantity allowed shall be the number of units times 400 cubic feet, or the above established quantity allowed for size of service, whichever is greater. Unless water service to premises is disconnected entirely, the minimum charge will apply to all units whether occupied or not. However, an adjustment may be made for the unoccupied units of a newly constructed multiple structure for a period of 6 months from the date of first occupancy. The owner is responsible for providing written information and facilitating City's inspection.

(c-iii) Commercial and Industrial. Rate shall be based on the size of the service line and quantity used as established in [subsections] "a" and "b" of this [section].

(c-iv) Flat Rate. Residential accounts shall be $8.05 per month. All flat rate accounts having water meters shall be billed as regular metered accounts starting January 1, 1988. [Section 9 (c-iv) amended by Ordinance No. 1975, passed April 13, 1987.]

(d) Fire Sprinkler Connections. $3.00 per diameter inch of service line per month.

(e) Bulk Rate. For first 500 cubic feet, the minimum charge shall be $20.00, including one time turn-on and turn-off of meter and valve device each day at one location. These charges will be doubled for the services necessitated on the week-ends, holidays and after 4:00 p.m. on regular work days. Public Works Department may make estimates for small flows. Summer bulk rate sale shall be limited by the Public Works Department, allowed generally in the early mornings. Public right-of-way construction and other public use may be exempted from the bulk rate charge.

(f) Minimum Charge at Start/Closing. The bills shall be prorated according to the usage, however, the minimum charge shall accrue to the end of the billing period for the services turned off during a billing cycle for nonpayment.

(g) Outside City Limits. A factor of 1.5 shall be applied to all rates and charges for services outside the City.

(h) The monies collected pursuant to the provisions of this section shall be used to pay the costs of operation, maintenance and expansion of the water supply and distribution systems, and related facilities and services, including administrative and engineering costs.

Section 10. Prior Agreements. All prior Council approved service agreements between the City and a customer will remain in force for the term of the agreement. However, the requirements of this ordinance and other applicable ordinances, including the rate increase provisions, must be met. [Section 10 added by Ordinance No. 1933, passed December 11, 1985.]

[Sections 11 through 33 renumbered by Ordinance No. 1933, passed December 11, 1985.]

Section 11. Leak Adjustments. In case of leakage, an adjustment for one billing or a two month period [shall] be made if the leak has been promptly repaired and the request for leak adjustment has been made within 6 months. Such adjustments shall not exceed 100% of the estimated excess flow attributable to the leak. A charge of $10.00 will be made for leak adjustment service after the current flat rate services have been metered.

Section 12. Rate and Fee Increases. Unless otherwise modified by the City Council, all rates and charges detailed in Section 9(a) and 9(d) shall be automatically increased by approximately five and one-half percent (5.5%) effective with the billings for service beginning December 1, 1985, and again by said percentage beginning December 1, 1986. Thereafter, rate adjustments will be established by Council action at a frequency and amount determined to be fiscally responsible to support service obligations. [Section 12 amended by Ordinance No. 1933, passed December 11, 1985.]

Discontinuance of Service

Section 13. Unsafe Apparatus.

(1) The City may refuse to furnish water and may discontinue service to a premises where an apparatus, appliance or other equipment using water is dangerous, unsafe or is being used in violation of laws, ordinances or legal regulations.

(2) The City does not assume liability for inspecting apparatus on the customer's property. The City does reserve the right of inspection, however, if there is reason to believe that unsafe or illegal apparatus is in use.

Section 14. **Service Detrimental to Others**. The City may refuse to furnish water and may discontinue service to premises where excessive demand by one customer will result in inadequate service to others.

Section 15. **Fraud and Abuse**. The City shall have the right to refuse or to discontinue water service to a premises to protect itself against fraud or abuse.

Section 16. **Noncompliance**. The City may discontinue water service to a customer for noncompliance with a City regulation if the customer fails to comply with the regulation within five days after receiving written notice of the City's intention to discontinue service. If such noncompliance affects matters of health or safety or other conditions that warrant such action, the City may discontinue water service immediately.

Section 17. **Water Waste**. Where wasteful or negligent water use seriously affects the general service, the City may discontinue the service if such conditions are not corrected within five days after the customer is given written notice. Knowingly allowing water to leak and not repairing it will constitute water waste.

Section 18. **Abandoned and Nonrevenue-producing Services**. When a service connection to a premises has been abandoned or not used for a period of one year or longer, the City may remove it or the City may start charging the minimum fee. New service shall be placed only upon the customer's applying and paying for a new service connection and water system capacity fee.

Section 19. **Materials Used**. Sizes of meters, pipes and other materials to be used in water connection and installation shall be determined by the City.

General

Section 20. **Pools and Tanks**. When an abnormally large quantity of water is desired for filling a swimming pool, log pond or for other purposes, arrangements shall be made with the City prior to taking such water. Permission to take water in unusual quantities shall be given only if it can be safely delivered and if other customers will not be inconvenienced.

Section 21. **Damage to City Property**. The customer shall be liable for damage to a meter or other equipment or property owned by the City which is caused by an act of the customer, his tenants or agents. The damage shall include the breaking or destruction of seals by the customer on or near a meter and damage to a meter that may result from hot water or steam from a boiler or heater on the customer's premises. The City shall be reimbursed by the customer for such damage promptly on presentation of a bill.

Section 22. **Water Source Development.** No water source development will be made within the City limits without prior approval from the City Engineer.

Section 23. Cross Connections.

(A) Health regulations. Unprotected cross connections between the public water supply and any unapproved source of water are prohibited.

(B) Definition. A cross connection is defined as an interconnection between the utility water supply and any unapproved water supply, or a connection between a water distribution pipe and any fixture installed in such a manner that unsafe water, waste or sewage may be drawn into the utility water system. Cross connections may be divided into two classifications as follows:

(1) Connections in which pure and impure water are separated by gate valves, check valves, or both.

(2) Connections which permit pollution to enter when the pressure in the utility water system falls below atmospheric pressure, thus creating a vacuum. This process of water pollution is known as back siphonage.

(C) Use of private water and City water. Customers desiring to use both a utility water supply and a supply of water other than that furnished by the utility may obtain water at meter rates upon the following conditions and not otherwise. Under no circumstances shall a physical connection, direct or indirect, exist or be made in any manner, even temporarily, between the utility water supply and that of a private water supply. Where such a connection is found to exist, or where provision is made to connect the two systems by means of a spacer or otherwise, the utility water supply shall be shut off from the premises without notice. In case of such discontinuance, service shall not be re-established until satisfactory proof is furnished that the cross connection has been completely and permanently severed.

Section 24. Access to Premises.

(A) The City or its duly authorized agents shall at all reasonable times have the right to enter or leave the customer's premises for any cross connection inspection with the service of water to the premises.

(B) The requirements of State Health Department and other appropriate agencies will provide guidelines to the City to its enforcement responsibility.

Water Conservation

Section 25. Declaration of Emergency. When the Mayor is informed that the City water supply has become, or is about to become, depleted to such an extent as to cause a serious water shortage in the City, the Mayor shall have the authority to declare an emergency water shortage and to direct that the provisions of Section [26] through [30] of this ordinance be enforced.

Section 26. **Notice of Declaration of Emergency**. When a declaration of emergency is pronounced by the Mayor, the City Administrator or his designate shall make the declaration public in a manner reasonably calculated to provide actual notice to the public. This provision shall not be construed as requiring personal delivery or service of notice or notice by mail.

Section 27. **Prohibited Uses of Water**. When a declaration of emergency is pronounced and notice has been given in accordance with Section [25] and [26] above, the use and withdrawal of water by any person for the following purposes shall be prohibited:

(1) Sprinkling, watering or irrigating shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers or any other vegetation.

(2) Washing automobiles, trucks, trailers, trailerhouses, railroad cars or any other type of mobile equipment.

(3) Washing sidewalks, driveways, filling station aprons, porches and other surfaces.

(4) Washing the outside of dwellings; washing the inside or outside of office buildings.

(5) Washing and cleaning any business or industrial equipment and machinery.

(6) Operating any ornamental fountain or other structure making a similar use of water.

(7) Swimming and wading pools not employing a filter and recirculating system.

(8) Permitting the escape of water through defective plumbing.

Section 28. **Exemptions**. At the discretion of the Mayor, one or more of the above uses may be exempted from the provisions of this section. The exemption shall be made public as provided in Section [26] of this ordinance.

Section 29. **Exception to Maintain Sanitation**. The City Administrator shall have the authority to permit a reasonable use of water necessary to maintain adequate health and sanitation standards.

Section 30. Enforcement. Department of Public Works will be responsible for the interpretation and administration of this ordinance.

Section 31. Civil Infraction Assessment. A violation of any provision of this ordinance constitutes a class 2 civil infraction and shall be dealt with according to the procedures established by Ordinance 1998. [Section 30 amended by Ordinance No. 2008, passed October 24, 1988.]

Section 32. Severability. The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

Section 33. Repeal. Ordinance No. 1378, enacted October 8, 1973; Ordinance No. 1595, enacted March 21, 1978; Ordinance No. 1596, enacted March 21, 1978; Ordinance No. 1622, enacted June 27, 1978; and Ordinance No. 1804, enacted January 10, 1983, are repealed.

Passed by the Council April 23, 1984, and approved by the Mayor April 24, 1984.

ORDINANCE NO. 1965

AN ORDINANCE PROVIDING RULES, REGULATIONS, AND ENFORCEMENT FOR THE USE AND SUPPLY OF CITY SANITARY SEWER SERVICE AND WATER SERVICE, REPEALING ORDINANCE NO. 1931, AND DECLARING AN EMERGENCY.

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. **Deposit Application**. Application for City sanitary sewer and water services, other than connection and meter installation service, shall be by written application on forms provided at the Recorder's Office. Each application for the use of sanitary sewer and water service must specifically designate the property to be served and the owner thereof and must be accompanied by a deposit in the sum of not less than $40.00 or an amount equal to estimated 3 months bill at the discretion of the City. However, any resident of Woodburn (a person who has established credit with the City of Woodburn by having water and/or sewer service in his/her own name) will by allowed to move from one location within the City limits without having to pay a deposit if that resident has lived in Woodburn for at least three (3) years, has had City of Woodburn water and/or sewer service in his/her own name, and has not been delinquent in paying for water and/or sewer service within the past three years.

Section 2. **Deposit Refund**.

(A) A refund of the water and sewer service deposit will occur when a customer shows a satisfactory credit performance for three years. If it becomes necessary to make one or more visits to enforce collection and/or shut-off for non-payment during the three year period, the City shall retain the deposit. The deposit will be held for an additional three years from the date of the last visit to the customer's premise for collection for non-payment of a bill. (Definition of visit - hand delivery of notice of shut-off to the customer's premise. Definition of satisfactory credit - no water shut-off notices hand delivered and /or temporary shut-off service for non-payment during a three year period).

(B) A refund of the deposit will occur upon the applicant's requesting discontinuance of service provided that all outstanding bills are paid in full. The deposit may be applied to the final bill.

(C) If an account is shut-off for non-payment, the deposit shall be held as security until the outstanding balance is paid. The deposit will only be applied to the outstanding balance when the account is closed and no further water or sewer service is required by the customer. The remaining balance of the deposit not used to pay the outstanding bill will be refunded to the customer.

(D) Upon refund of the cash deposit to the applicant for satisfactory credit performance or upon termination of service, the deposit shall be refunded together with interest thereon at the rate of one-half percent (1/2%) below the average annual interest rate received by the City. However, no interest shall be allowed or paid by the City of Woodburn on deposits which have been deposited with the City for less than 30

days. All cash deposits so paid to the City of Woodburn by water users shall be credited by the Finance Department into a special account to be known as "Water Deposit Trust Account".

Section 3. Disconnect Procedure.

(A) All Charges for sanitary sewer and water service furnished or rendered by the City of Woodburn shall be chargeable to the premises or property where sanitary sewer and water service is supplied and, in addition, all persons signing an application for the use of sanitary sewer and water service shall be personally liable for all charges accrued against the property designated within the application. The City reserves the right to cut off and disconnect sanitary sewer and water service to the premises without further notice when charges for sanitary sewer and water service have not been paid within 30 days after the due date, and the expense thereof shall be borne by the property to which such service has been supplied. The City shall provide 3 to 5 days notice by a door hanger or by mail prior to water service disconnect.

(B) After the City water services have been disconnected for non-payment, it shall not be restored unless the bill has been paid in full. The charges for turn-on for non-payment of water bill shall be $10.00 during 8:00 AM to 4:00 PM and $25.00 during 4:00 PM and 8:00 AM on a regular workday. On any holiday, Saturday, or Sunday, a similar charge of $25.00 will be made for the turn-on service.

(C) The charges for turn-off and/or turn-on for reasons other than non-payment of water bill shall be $10.00. No charge shall be made for water turn-on service for a new customer with a deposit or an established three year credit, and for the turn-on and/or turn-off services necessitated by an emergency such as waterline or equipment breakage.

(D) A renter or owner shall not be allowed to have City utility services at a new location unless the current billings have been satisfied. The non-delinquent bills after deposit deduction remains with the property.

(E) The disconnect notice shall be sent to the renter as well as the property owner at the time of termination of service for non-payment of bill. It is the property owner's responsibility to inform the City of its ownership. If the City fails to provide notice to the property owner, who has informed the City of its ownership and is on the City's current records, then the said property will not be liable for City's utility charges exceeding 15 working days beyond delinquency. Also, this provision will apply if the City fails to turn-off the water to the premises. Any charges exceeding 15 working days beyond delinquency must be collected from the renter or user of utility services, and failing to do so, the revenues shall be considered uncollectible and deleted from the City resources. The City may charge 1% interest per month on delinquent accounts.

Section 4. Lien Procedure. Any and all sanitary sewer and water service bills not paid within 45 days after the due date shall be recorded by the City Recorder in the docket of City liens. When so docketed, said sum shall be a lien or charge against the

estate and interest of the respective owners and the parties interested in such land which shall have been supplied with sanitary sewer and water service. Said persons shall make payment within 10 days from the time of entering the same in the docket of City liens and, if not so paid, the same shall be deemed delinquent and thereupon shall be collected in the manner provided for the collection of delinquent assessments. In addition to the City's property lien process, the City may use State statutes to collect the sewer bills.

Section 5. **Notice**. Notice to the City of the desire of any person to have the water turned off or at any premises shall be given to the Recorder at least 24 hours before the water is to be so turned on or off. In no event shall any person, other than the duly authorized employees of the City, turn on the supply of City water after the same has been shut off by the City on account of discontinuance of service for any reason whatsoever.

Section 6. **Permit**. No person supplied with sanitary sewer and water service shall be permitted to supply or furnish such services in any way to other persons or premises without a permit from the City Council.

Section 7. **Repairs**. The City reserves the right to shut off water from the mains, without notice, for repairs or other necessary purposes. For normal, routine repairs, the City shall take reasonable precaution to notify occupants of affected premises of the intention to shut off the water supply. In no event shall the City, its officers, employees or agents be responsible for any damage resulting from shutting off the City water supply. Water for steam boilers for power purposes shall not be furnished by direct pressure from the City water main. Owners of steam boilers shall maintain tanks for holding an ample reserve of water.

Section 8. **Alterations**. No person, other than an agent of the City, shall tap the City sanitary sewer or water mains, or make alterations in any conduit, pipe, or other fixture connected therewith, between the main and the property line.

Section 9. **Access**. The City shall have free access to all parts of the building or premises which are served by City sanitary sewer and water service for the purpose of inspecting the pipes and fixtures.

Section 10. **Rates**.

(A) The City Council of the City of Woodburn shall from time to time establish, by ordinance, all rates, surcharges, and connection fees for the use of the City of Woodburn sanitary sewer and water service. The Public Works Director shall conduct an annual review of rates contained in this ordinance.

(B) Outside City Limits. A factor of 1.5 shall be applied to all rates and charges for service outside the City.

(C) Hardship Relief. Hardship cases may apply for and be granted a monthly charge reduction of 40% to the bill. Hardship may be established by submitting proof of $6,000 or less yearly income. To remain eligible for reduction, the water consumption must not exceed the average, and the City may at its option install a meter for this monitoring.

Section 11. Civil Infraction Assessment. A violation of any provision of this ordinance constitutes a class 3 civil infraction and shall be dealt with in according to the procedures established by Ordinance 1998. [Section 11 as amended by Ordinance No. 2008, passed October 28, 1988.]

Section 12. Severability. The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

Section 13. Repeal. Ordinance No. 1931 is hereby specifically repealed.

Section 14. [Emergency clause.]

Passed by the Council February 9, 1987, and approved by the Mayor February 11, 1987.

ORDINANCE NO. 2070

AN ORDINANCE ESTABLISHING SYSTEM DEVELOPMENT CHARGES FOR WATER AND SEWER.

[Whereas clauses.]

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions.

(A) "Applicant" shall mean the owner or other person who applies for a building permit, development permit, or connection to the City's water or sewer system.

(B) "Building" shall mean any structure, either temporary or permanent, built for the support, shelter or enclosure of persons, chattels or property of any kind. This term shall include tents, trailers, mobile homes or any vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.

(C) "Building permit" shall mean an official document or certificate authorizing the construction or siting of any building. For purposes of this ordinance, the term "building permit" shall also include any construction or installation permits which may be required for those structures or buildings, such as a mobile home, that do not require a building permit in order to be occupied.

(D) "Capital improvements" shall mean public facilities or assets used for any of the following:

1) Water supply, treatment, storage, and transmission/conveyance;

2) Sewer collection/conveyance, treatment, and disposal; or

(Section 1(D) as amended by Ordinance 2251 passed November 22, 1999, and effective January 1, 2000.)

(E) "Citizen or other interested person" shall mean any person who is a legal resident of the City of Woodburn as evidenced by registration as a voter in the City, or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within the city limits or is otherwise subject to the imposition of system development charges, as outlined in Section (3) of this ordinance.

(F) "Development" shall mean a building or other land construction, or making a physical change in the use of a structure or land, in a manner which increases the usage of any capital improvements or which will contribute to the need for additional or enlarged capital improvements.

(G) "Development permit" shall mean an official document or certificate, other than a building permit, authorizing development.

(H) "Dwelling unit" shall mean a building or a portion of a building designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for one family only.

(I) "Encumbered" shall mean monies committed by contract or purchase order in a manner that obligates the City to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of real property provided by a vendor, supplier, contractor or owner.

(J) "Improvement fee" shall mean a fee for costs associated with capital improvements to be constructed after the effective date of this ordinance.

(K) "Owner" shall mean the person holding legal title to the real property upon which development is to occur.

(L) "Person" shall mean an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(M) "Qualified public improvement" shall mean a capital improvement that is:

1) Required as a condition of development approval;

2) Identified in the adopted capital improvement plan (CIP); and either

a) not located on or contiguous to property that is the subject of development approval; or

b) located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

Section 1 (M) as amended by Ordinance 2251 passed November 22, 1999, and effective January 1, 2000.)

(N) "Reimbursement fee" shall mean a fee for costs associated with capital improvements already constructed or under construction on the effective date of this ordinance.

(O) "System development charge" shall mean a reimbursement fee, an improvement fee, or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. System development

charges are separate from and in addition to any applicable tax, assessment, fee in lieu of assessment, or other fee or charge provided by law or imposed as a condition of development. System development charges do not include connection or hook-up fees that reimburse the City for the average cost of inspecting and installing connections to water and sewer capital improvements.

(P) "System development charge study" shall mean the study adopted pursuant to Section (3)(B), as amended and supplemental pursuant to Section (3)(H).

Section 2. Rules of Construction. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply:

(A) In case of any difference of meaning implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

(B) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(C) Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; and use of the masculine gender shall include the feminine gender.

(D) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".

(E) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either"...or", the conjunction shall be interpreted as follows:

(1) "And" indicates that all the connected terms, conditions, provisions or events shall apply.

(2) "Or" indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.

(3) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(F) The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like find or character.

Section 3. Imposition of System Development Charges. System development charges are hereby imposed, subject to the following conditions.

(A) Development Subject to Charges. System Development Charges are imposed on all development within the city for capital improvements for water and sewer. System Development Charges are imposed on any development outside the city boundary for water and sewer capital improvements, if such development connects to or otherwise uses the city's water or sewer systems. The System Development Charges shall be paid in addition to all other fees, charges and assessments due for development, and are intended to provide funds only for capital improvements necessitated by new development.

(Section 3 (A) as amended by Ordinance 2251 passed November 22, 1999, and effective January 1, 2000.)

(B) Rates of Charges:

(1) For the purpose of setting Water and Sewer System Development Charges, the city hereby adopts and incorporates by reference the study entitled "System Development Charges for Woodburn, Oregon" dated July 29, 1991, particularly the assumptions, conclusions and findings in such study as to the determination of anticipated costs of capital improvements required to accommodate growth and the rates for system development charges to reimburse the city for such capital improvements.

(Section 3 (B)(1) as amended by Ordinance 2251 passed November 22, 1999, and effective January 1, 2000.)

(2) System development charges shall be imposed and calculated for the alteration, expansion or replacement of a building or dwelling unit if such alteration, expansion or replacement results in an increase in the use of capital improvements compared to the present use of the development. The amount of the system development charge to be paid shall be the difference between the rate for the proposed development and the rate that would be imposed for the development prior to the alteration, expansion or replacement.

(3) The City shall, based upon the study referred to in subsection (1) above, adopt by resolution the amounts of system development charges.

(C) Payment of Charges. Except as otherwise provided in this ordinance, applicants for building permits, development permits, or connection to City water or sewer systems shall pay the applicable system development charges prior to the issuance of the permit or connection by the City.

(D) Alternative Rate Calculation. Applicants may submit alternative rates for system development charges, subject to the following conditions:

(1) In the event an applicant believes that the impact on City capital improvements resulting from his development is less than the fee established in Section (3)(B), such applicant may submit a calculation of an alternative system development charge to the City Council.

(2) The alternative system development charges rate calculations shall be based on data, information and assumptions contained in this ordinance and the adopted system development charges study or an independent source, provided that the independent source is a local study supported by a data base adequate for the conclusions contained in such study performed pursuant to a generally accepted methodology and based upon generally accepted standard sources of information relating to facilities planning, cost analysis and demographics.

(3) If the City Council determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates comply with the requirements of this Section by using a generally accepted methodology, the alternative system development charges rates shall be paid in lieu of the rates set forth in Section (3)(B).

(4) If the City Council determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates do not comply with the requirements of this Section or were not calculated by a generally accepted methodology, then the City Council shall provide to the applicant (by certified mail, return receipt requested) written notification of the rejection of the alternative system development charges rates and the reason therefor.

(5) Any applicant who has submitted a proposed alternative system development charges rate pursuant to this Section and desires the immediate issuance of a building permit, development permit, or connection shall pay the applicable system development charges rates pursuant to Section (3)(B). Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any right of review. Any difference between the amount paid and the amount due, as determined by the Council, shall be refunded to the applicant.

(E) Exemptions. The following development shall be exempt from payment of the system development charges:

(1) Alterations, expansion or replacement of an existing dwelling unit where not additional dwelling units are created and no change in use has occurred.

(2) The construction of accessory buildings or structures which will not create additional dwelling units and which do not create additional demands on the City's capital improvements.

(3) The issuance of a permit for a mobile home installation on the property which applicable system development charges have previously been made for
such installation as documented by receipts issued by the City for such prior payment.

(4) Development with vested rights, determined as follows:

(a) Any owner of land which was the subject of a building permit or development permit issued prior to the effective date of this ordinance may petition the City for a vested rights determination which would exempt the landowner from the provisions of this ordinance. Such petition shall be evaluated in writing by the City Attorney and a decision made by the City Council based on the following criteria:

(i) The existence of a valid, unexpired permit issued by the City authorizing the specific development for which a determination is sought;

(ii) Substantial expenditures or obligations made or incurred in reliance upon the authorizing governmental act;

(iii) Other factors that demonstrate it is highly inequitable to deny the owner the opportunity to complete the previously approved development under the conditions of approval by requiring the owner to comply with the requirement of this ordinance. For the purposes of this paragraph, the following factors shall be considered in determining whether it is inequitable to deny the owner the opportunity to complete the previously approved development:

(aa) Whether the injury suffered by the owner outweighs the public cost of allowing the development to go forward without payment of the system development charges required by this ordinance; and

(bb) Whether the expenses or obligations for the development were made or incurred prior to the effective date of this Ordinance.

(F) Credits for Development Contributions of Qualified Public Improvements. The City shall grant a credit against the system development charges imposed pursuant to Section (3)(A) and (B) for the donation of land as permitted by Ordinance 1807, or for the construction of any qualified public improvements. Such land donation and construction shall be subject to the approval of the City.

(1) The amount of developer contribution credit to be applied shall be determined according to the following standards of valuation:

(a) The value of donated lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser based upon comparable sales of similar property between unrelated parties in a bargaining transaction; and

(b) The cost of anticipated construction of qualified public improvements shall be based upon cost estimates certified by a professional architect or engineer.

(2) Prior to issuance of a building permit, development permit, or connection, the applicant shall submit to the City Administrator a proposed plan and estimate of cost for contributions of qualified public improvements. The proposed plan and estimate shall include:

(a) A designation of the development for which the proposed plan is being submitted;

(b) A legal description of any land proposed to be donated pursuant to Chapter 39 of the Woodburn Zoning Ordinance, Ordinance 1807, and a written appraisal prepared in conformity with subsection (1)(a) of this Section.

(c) A list of the contemplated capital improvements contained within the plan;

(d) An estimate of proposed construction costs certified by a professional architect or engineer; and

(e) A proposed time schedule for completion of the proposed

(3) The City Administrator shall determine if the proposed qualified public improvement is:

(a) Required as a condition of development approval;

(b) Identified in the adopted capital improvement plan (CIP); and either

i) Not located on or contiguous to property that is the subject of development approval; or

ii) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(Section 3 (F)(3) as amended by Ordinance 2251 passed November 22, 1999, and effective January 1, 2000.)

(4) Any applicant who submits a proposed plan pursuant to this Section and desires the immediate issuance of a building permit, development permit, or connection, shall pay the applicable system development charges. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights. Any difference between the amount paid the amount due, as determined by the City Administrator, shall be refunded to the applicant. In no event shall a refund by City under this subsection exceed the amount originally paid by the applicant.

(5) In the event the amount of developer contribution determined to be applicable by the City Administrator pursuant to an approved plan of contribution exceeds the total amount of system development charges due by the applicant, the City may execute with the applicant an agreement for future reimbursement of the excess of such contribution credit from future receipts by the City of other system development charges. Such agreement of reimbursement shall be subject to City

Council Approval and not be for a period in excess of five years from the date of completion of the approved plan of contribution and shall provide for a forfeiture of any remaining reimbursement balance at the end of such five year period.

(G) Appeals and Review Hearings.

(1) An applicant who is required to pay system development charges shall have the right to request a hearing to review the denial by the City Administrator of any of the following:

(a) A proposed credit for contribution of qualified public improvements pursuant to Section (3)(F).

(2) Such hearing shall be requested by the applicant within fifteen (15) days of the date of first receipt of the denial by the City Administrator. Failure to request a hearing within the time provided shall be deemed a waiver of such right.

(3) The request for hearing shall be filed with the City Administrator and shall contain the following:

(a) The name and address of the applicant;

(b) The legal description of the property in question;

(c) If issued, the date the building permit, development permit, or connection was issued;

(d) A brief description of the nature of the development being undertaken pursuant to the building permit, development permit, or connection;

(e) If paid, the date the system development charges were paid; and

(f) A statement of the reasons why the applicant is requesting the hearing.

(4) Upon receipt of such request, the City Administrator shall schedule a hearing before the City Council at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.

(5) Such hearing shall be before the City Council and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedures and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

(6) Any applicant who requests a hearing pursuant to this Section and desires the immediate issuance of a building permit, development permit, or connection shall pay prior to or at the time the request for hearing is filed the applicable system development charges pursuant to Section (3)(B). Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights.

(7) An applicant may request a hearing under this Section without paying the applicable system development charges, but no building permit, development permit, or connection shall be issued until such system development charges are paid in the amount initially calculated or the amount approved upon completion of the review provided in this Section.

(H) Review of Study and Rates. This ordinance and the system development charges study shall be reviewed at least once every four years. The review shall consider new estimates of population and other socioeconomic data, changes in the cost of construction and land acquisition, and adjustments to the assumptions, conclusions or findings set forth in the study adopted by Section (3)(B). The purpose of this review is to evaluate and revise, if necessary, the rates of the system development charges to assure that they do not exceed the reasonably anticipated costs of the City's capital improvements. In the event the review of the ordinance or the study alters or changes the assumptions, conclusions and findings of the study, or alters or changes the assumptions, conclusions and findings of the study, or alters or changes the amount of system development charges, the study adopted by reference in Section (3)(B) shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews and Section (3)(B) shall be amended to adopt by reference such updated studies.

Section 4. Receipt and Expenditure of System Development Charges.

(A) Trust Accounts. The city hereby establishes a separate trust account for each type of System Development Charge to be designated as the "Water SDC Account" and the "Sewer SDC Account," which shall be maintained separate and apart from all other accounts of the city. All System Development Charge payments shall be deposited into the appropriate trust account immediately upon receipt.

(Section 4 (A) as amended by Ordinance 2251 passed November 22, 1999, and effective January 1, 2000.)

(B) Use of System Development Charges. The monies deposited into the trust accounts shall be used solely for the purpose of providing capital improvements necessitated by development, including, but not limited to:

(1) Design and construction plan preparation;

(2) Permitting and fees;

(3) Land and materials acquisition, including any costs of acquisition or condemnation;

(4) Construction of improvements and structures;

(5) Design and construction of new drainage facilities required by the construction of capital improvements and structures;

(6) Relocating utilities required by the construction of improvements and structures;

(7) Landscaping;

(8) Construction management and inspection;

(9) Surveying, soils and material testing;

(10) Acquisition of capital equipment;

(11) Repayment of monies transferred or borrowed from any budgetary fund of the City which were used to fund any of the capital improvements as herein provided;

(12) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to fund capital improvements;

(13) Direct costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charges methodologies and providing an annual accounting of system development charges expenditures.

(C) Prohibited Uses of System Development Charges. Funds on deposit in system development charge trust accounts shall not be used for:

(1) Any expenditure that would be classified as a routine maintenance or repair expense; or

(2) Costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

(D) Capital Improvements Authorized to be Financed by System Development Charges. Any capital improvement being funded wholly or in part with system development charges revenue shall be included in the City's capital improvement program. The capital improvement program shall:

(1) List the specific capital improvement projects that may be funded with system development charges revenue;

(2) Provide the cost of each capital improvement project, and an estimate of the amounts of each revenue source, including system development charges, that will be used to fund each project;

(3) Provide the estimated timing of each capital improvement project; and

(4) Be updated at least once every four years.

(E) Investment of Trust Account Revenue. Any funds on deposit in system development charges trust accounts which are not immediately necessary for expenditure shall be invested by the City. All income derived from such investments shall be deposited in the system development trust accounts and used as provided herein.

(F) Refunds of System Development Charges. System development charges shall be refunded in accordance with the following requirements:

(1) An applicant or owner shall be eligible to apply for a refund if:

a) The building permit, development permit or connection has expired and the development authorized by such permit is not complete; or

b) The system development charges have not been expended or encumbered prior to the end of the fiscal year immediately following the ninth anniversary of the date upon which such charges were paid. For the purposes of this section, system development charges were paid. For the purposes of this section, system development charges collected shall be deemed to be expended or encumbered on the basis of the first system development charges in shall be the first system development charges out.

(2) The application for refund shall be filed with the City Administrator and contain the following:

a) The name and address of the applicant;

b) The location of the property which was the subject of the system development charges;

c) A notarized sworn statement that the petitioner is the then current owner of the property on behalf of which the system development charges were paid, including proof of ownership, such as a certified copy of the latest recorded deed;

d) The date the system development charges were paid;

e) A copy of the receipt of payment for the system development charges; and, if appropriate;

f) The date the building permit, development permit, or connection was issued and the date of expiration.

(3) The application shall be filed within ninety (90) days of the expiration of the building permit, development permit, or connection, or within ninety (90) days of the end of the fiscal year following the ninth anniversary of the date upon which the system development charges were paid. Failure to timely apply for a refund of the system development charges shall waive any right to a refund.

(4) Within thirty (30) days from the date of receipt of a petition for refund, the City Administrator will advise the petitioner of the status of the request for refund, and if such request is valid, the system development charges shall be returned to the petitioner.

(5) A building permit, development permit, or connection which is subsequently issued for a development on the same property which was the subject of a refund shall pay the systems development charges as required by Section (3).

(G) Annual Accounting Reports. The City shall prepare an annual report accounting for system development charges, including the total amount of system development charges revenue collected in each trust account, and the capital improvement projects that were funded.

(H) Challenge of Expenditures. Any citizen or other interested person (as defined in Section (1) (F) may challenge an expenditure of system development charges revenues.

(1) Such challenge shall be submitted, in writing, to the City Administrator for review within two years following the subject expenditure, and shall include the following information:

a) The name and address of the citizen or other interested person challenging the expenditure;

b) The amount of the expenditure, the project, payee or purpose, and the approximate date on which it was made; and

c) The reason why the expenditure is being challenged.

(2) If the City Administrator determines that the expenditure was not made in accordance with the provisions of this ordinance and other relevant laws, a reimbursement of system development charges trust account revenues from other revenue sources shall be made within one year following the determination that the expenditures were not appropriate.

(3) The City Administrator shall make written notification of the results of the expenditure review to the citizen or other interested person who requested the review within ten (10) days of completion of the review.

Section 5. Severability. If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

Passed by the Council September 9, 1991 and approved by the Mayor September 10, 1991.

ORDINANCE NO. 2111

AN ORDINANCE ESTABLISHING A METHODOLOGY FOR TRAFFIC IMPACT FEES (TIF) AND STORMWATER DRAINAGE SYSTEM DEVELOPMENT CHARGES; AND REPEALING ORDINANCE NO. 1842.

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions. The following definitions apply:

(A) "Applicant" shall mean the owner or other person who applies for a building permit or development permit.

(B) "Bancroft Bond" shall mean a bond issued by the city to finance a capital improvement in accordance with ORS 223.205 - 223.295.

(C) "Building" shall mean any structure, either temporary or permanent, built for the support, shelter or enclosure of persons, chattels or property of any kind. This term shall include tents, trailers, mobile homes or any vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.

(D) "Building Permit" shall mean an official document or certificate authorizing the construction or siting of any building. For purposes of this ordinance, the term "Building Permit" shall also include any construction or installation permits which may be required for those structures or buildings, such as a mobile home, that do not require a building permit in order to be occupied.

(E) "Capital Improvements" shall mean public facilities or assets used for stormwater drainage.

(Section 1 (E) as amended by Ordinance 2249 passed November 22, 1999, effective January 1, 2000.)

(F) "Citizen or Other Interested Person" shall mean any person who is a legal resident of the City of Woodburn as evidenced by registration as a voter in the city, or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within the city limits or is otherwise subject to the imposition of system development charges, as outlined in Section 3 of this ordinance.

(G) "City" shall mean the City of Woodburn, Oregon.

(H) "Credit" shall mean the amount of money by which the TIF or Stormwater Drainage SDC for a specific development may be reduced because of construction of eligible capital facilities as outlined in this ordinance.

(I) "Development" shall mean a building or other land construction, or making a change in the use of a structure or land, in a manner which increases the usage of any capital improvements or which will contribute to the need for additional or enlarged capital improvements.

(J) "Development Permit" shall mean an official document or certificate, other than a building permit, authorizing development.

(K) "Dwelling Unit" shall mean a building or a portion of a building designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for one family only.

(L) "Encumbered" shall mean monies committed by contract or purchase order in a manner that obligates the city to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of real property provided by a vendor, supplier, contractor or Owner.

(M) "Improvement Fee" shall mean a fee for costs associated with capital improvements to be constructed after the effective date of this ordinance. Notwithstanding anything in this ordinance to the contrary, it is an incurred charge or cost based upon the use of or the availability for use of the systems and capital improvements required to provide services and facilities necessary to meet the routine obligations of the use and ownership of property, and to provide for the public health and safety upon development.

(N) "Off-site" shall mean not located on or contiguous to property that is the subject of development approval.

(O) "On-site" shall mean located on or contiguous to property that is the subject of developmental approval.

(P) "Owner" shall mean the person holding legal title to the real property upon which development is to occur.

(Q) "Person" shall mean an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(R) "Prime Rate of Interest" shall mean the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks as posted in the Wall Street Journal.

(S) "Qualified Public Improvement" shall mean a capital improvement that is:

1) Required as a condition of residential development approval;

2) Identified in the adopted capital improvement plan (CIP); and either

a) not located on or contiguous to property that is the subject of development approval; or

b) located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related

(Section 1 (S) as amended by Ordinance 2249 passed November 22, 1999, effective January 1,2000.)

(T) "Right-of-Way" shall mean that portion of land that is dedicated for public use.

(U) "System Development Charge" shall mean an improvement fee assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit or building permit. System development charges are separate from and in addition to any applicable tax, assessment, fee in lieu of assessment, or other fee or charge provided by law or imposed as a condition of development.

(V) This subsection was repealed by Ordinance 2249 passed November 22, 1999.

(W) "Traffic Impact Fee and Stormwater Drainage System Development Charge Methodology Report" shall mean the report adopted pursuant to Section (3)(B), as amended and supplemented pursuant to Section (3)(H).

Section 2. Rules of Construction. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply:

(A) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

(B) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(C) Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; and use of the masculine gender shall include the feminine gender.

(D) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".

(E) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either...or", the conjunction shall be interpreted as follows:

1) "And" indicates that all the connected terms, conditions, provisions or events shall apply.

2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

3) "Either"...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(F) The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Section 3. Imposition of System Development Charges. System development charges are hereby imposed, subject to the following conditions:

(A) Development Subject to Charges. System development charges are imposed on all new development within the city for capital improvements for transportation and stormwater drainage. The system development charges shall be paid in addition to all other fees, charges and assessments due for development, and are intended to provide funds only for capital improvements necessitated by new development.

(B) Rates of Charges.

1) The city hereby adopts and incorporates by reference the report entitled "City of Woodburn Traffic Impact Fee and Stormwater Drainage System Development Charges Methodology Report", dated June 30, 1993, particularly the assumptions, conclusions and findings in such study as to the determination of anticipated costs of capital improvements required to accommodate growth and the rates for system development charges to reimburse the city for such capital improvements.

2) System development charges shall be imposed and calculated for the change in use, alternation, expansion or replacement of a building or dwelling unit if such change in use, alternation, expansion or replacement results in an increase in the use of capital improvements compared to the present use of the development. The amount of the system development charges to be paid shall be the difference between the rate for the proposed development and the rate that would be imposed for the development prior to the change in use, alternation, expansion or replacement.

3) The city shall, based upon the report referred to in subsection (1) above, adopt by resolution the amounts of system development charges.

4) An additional systems development charge may be assessed by the city if the demand placed on the city's capital facilities exceeds the amount initially estimated at the time systems development charges are paid. The additional charge shall be for the increased demand or for the demand abovethe underestimate, and it shall be based upon the fee that is in effect at the time the additional demand impact is determined, and not upon the fee structure that may have been in effect at the time the initial systems development charge was paid. This provision does not apply to single family or other residential units unless additional rental units are created.

(C) Payment of Charges. Applicants for building permits or development permits shall pay the applicable system development charges prior to the issuance of the permits by the city.

(Section 3 (C) as amended by Ordinance 2249 passed November 22, 1999, effective January 1, 2000.)

(D) Alternative Rate Calculation. Applicants may submit alternative rates for system development charges, subject to the following conditions:

1) In the event an applicant believes that the impact on city capital improvements resulting from a development is less than the fee established in Section (3) (b), the applicant may submit alternative system development charge rate calculations, accompanied by the alternative rate review fee established by resolution for this purpose, to the City Administrator. The city may hire a consultant to review the alternative system development charge rate calculations, and may pay the consulting fees from system development charges revenues.

2) The alternative system development charge rate calculations shall be based on data, information and assumptions contained in this ordinance and the adopted system development charges study or an independent source, provided that the independent source is a local study supported by a data base adequate for the conclusions contained in such study performed pursuant to a generally accepted methodology and based upon generally accepted standard sources of information relating to facilities planning, cost analysis and demographics.

3) If the city council determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates comply with the requirements of this section by using a generally accepted methodology, the alternative system development charges rates shall be paid in lieu of the rates set forth in Section (3)(B).

4) If the city council determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates do not comply with the requirements of this section or were not calculated by a generally accepted methodology, then the city council shall provide to the applicant (by certified mail, return receipt requested) written notification of the rejection of the alternative system development charges rates and the reason therefor.

5) Any applicant who has submitted a proposed alternative system development charges rate pursuant to this section and desires the immediate issuance of a building permit or development permit shall pay the applicable system development charges rates pursuant to Section (3)(B). Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any right of review. Any difference between the amount paid and the amount due, as determined by the city council, shall be refunded to the applicant.

(E) Exemptions. The following development shall be exempt from payment of the system development charges:

1) Alternations, expansion or replacement of an existing dwelling unit where no additional dwelling units are created.

2) The construction of accessory buildings or structures which will not create additional dwelling units and which do not create additional demands on the city's capital improvements.

3) The issuance of a permit for a mobile home on which applicable system development charges have previously been made as documented by receipts issued by the city for such prior payment.

4) Development with vested right, determined as follows:

a) Any owner of land which was the subject of a building permit or development permit issued prior to the effective date of this ordinance may petition the city for a vested rights determination which would exempt the landowner from the provision of this ordinance. Such petition shall be evaluated by the City Attorney and a decision made by the city council based on the following criteria:

i) The existence of a valid, unexpired permit issued by the city authorizing the specific development for which a determination is sought;

ii) Substantial expenditures or obligations made or incurred in reliance upon the authorizing governmental act;

iii) Other factors that demonstrate it is highly inequitable to deny the owner the opportunity to complete the previously approved development under the conditions of approval by requiring the owner to comply with the requirements of this ordinance. For the purposes of this paragraph, the following factors shall be considered in determining whether it is inequitable to deny the owner the opportunity to complete the previously approved development:

aa) Whether the injury suffered by the owner outweighs the public cost of allowing the development to go forward without payment of the system development charges required by this ordinance; and

bb) Whether the expenses or obligations for the development were made or incurred prior to the effective date of this ordinance.

(F) Credits for Developer Contributions of Qualified Public Improvements. The city shall grant a credit, not to exceed 100% of the applicable TIF or SDC, against the system development charges imposed pursuant to Section (3)(A) and (B) for the donation of land as permitted by Ordinance 1807, or for the construction of any qualified public improvements. Such land donation and construction shall be subject to the approval of the city.

1) The amount of developer contribution credit to be applied shall be determined according to the following standards of valuation:

a) The value of donated lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser based upon comparable sales of similar property between unrelated parties in a bargaining transaction; and

b) The cost of anticipated construction of qualified public improvements shall be based upon cost estimates certified by a professional architect or engineer.

2) Prior to issuance of a building permit or development permit, the applicant shall submit to the City Administrator a proposed plan and estimate of cost for contributions of qualified public improvements. The proposed plan and estimate shall include:

a) a designation of the development for which the proposed plan is being submitted.

b) a legal description of any land proposed to be donated pursuant to Chapter 39 of the Woodburn Zoning Ordinance, Ordinance 1807, and a written appraisal prepared in conformity with subsection (1)(a) of this section;

c) a list of the contemplated capital improvements contained within the plan;

d) an estimate of proposed construction costs certified by a professional architect or engineer; and

e) a proposed time schedule for completion of the proposed plan.

3) The City Administrator shall determine if the proposed qualified public improvement is:

a) Required as a condition of development approval;

b) Identified in the adopted capital improvement plan (CIP); and either

i) Not located on or contiguous to property that is the subject of development approval; or

ii) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built large or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

c) Not located on or contiguous to property that is the subject of residential development approval.

4) The decision of the City Administrator as to whether to accept the proposed plan of contribution and the value of such contribution shall be in writing and issued within fifteen (15) working days of the review. A copy shall be provided to the applicant.

5) A proposed improvement which does not meet all three (3) of the criteria included in Section 3(F)(3) above shall not be considered a qualified public improvement and the city is not required under ORS 223.297 - 223.314 to provide a credit for such an improvement. However, the city shall grant a credit, in an amount not to exceed fifty percent (50%) of the total amount of the applicable SDC, for certain other contributions of capital facilities under the following conditions:

a) The capital facilities being contributed must exceed the local stormwater drainage capacity (for SDC) required for the specific type of development (i.e., residential, industrial, etc.); and

b) Only the value of the contribution which exceeds the local stormwater drainage capacity (for SDC) required for the specific type of development (i.e., residential, industrial, etc.) shall be considered when calculating the credit; and

c) Donations for on-site right-of-way are not eligible for the credit.

(Section 3(F)(5) as amended by Ordinance 2259 passed November 22, 1999, effective January 1,2000.)

6) Any applicant who submits a proposed plan pursuant to this section and desires the immediate issuance of a building permit or development permit, shall pay the applicable system development charges. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights. Any difference between the amount paid and the amount due, as determined by the City Administrator, shall be refunded to the applicant. In no event shall a refund by city under this subsection exceed the amount originally paid by the applicant.

(G) Appeals and Review Hearings.

1) An applicant who is required to pay system development charges shall have the right to request a hearing to review the denial by the City Administrator of a proposed credit for contribution of qualified public improvements pursuant to Section (3)(F).

(Section 3 (G)(1) as amended by Ordinance 2249 passed November 22, 1999, effective January 1, 2000.)

2) Such hearing shall be requested by the applicant within fifteen (15) days of the date of first receipt of the denial by the City Administrator. Failure to request a hearing within the time provided shall be deemed a waiver of such right.

3) The request for hearing shall be filed with the City Administrator and shall contain the following:

a) The name and address of the applicant;

b) The legal description of the property in question;

c) If issued, the date the building permit or development permit was issued;

d) A brief description of the nature of the development being undertaken pursuant to the building permit or development permit;

e) If paid, the date the system development charges were paid; and

f) A statement of the reasons why the applicant is requesting the hearing.

4) Upon receipt of such request, the City Administrator shall schedule a hearing before the city council at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.

5) Such hearing shall be before the city council and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedures and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

6) Any applicant who requests a hearing pursuant to this section and desires the immediate issuance of a building permit or development permit shall pay prior to or at the time the request for hearing is filed the applicable system development charges pursuant to Section (3)(B). Said payment shall be deemed paid under "protest" and shall not construed as a waiver of any review rights.

7) An applicant may request a hearing under this section without paying the applicable system development charges, but no building permit or development permit shall be issued until such system development charges are paid in the amount initially calculated or the amount approved upon completion of the review provided in this section.

(H) Review of Study and Rates. This ordinance and the Traffic Impact Fee and Stormwater Drainage System Development Charge Methodology Report shall be reviewed at least once every five (5) years. The review shall consider new estimates of population and other socioeconomic data, changes in the cost of construction and land acquisition, and adjustments to the assumptions, conclusions or findings set forth in the report adopted by Section (3)(B). The purpose of this review is to evaluate and revise, if necessary, the rates of the system development charges to assure that they do not exceed the reasonably anticipated costs of the city's capital improvements. In the event the review of the ordinance or the report alters or changes the assumptions, conclusions and findings of the report, or alters or changes the amount of system development charges, the report adopted by reference in Section (3)(B) shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews and Section (3)(B) shall be amended to adopt by reference such updated reports.

Section 4. Receipt and Expenditure of System Development Charges.

(A) Trust Accounts. The City hereby establishes a separate trust account for each type of system development charge to be designated as the "Stormwater SDC", which shall be maintained separate and apart from all other accounts of the city. All system development charge payments shall be deposited into the appropriate trust account immediately upon receipt.

(Section 4(A) as amended by Ordinance 2249 passed November 22, 1999, effective January 1, 2000.)

(B) Use of System Development Charges. The monies deposited into the trust accounts shall be used solely for the purpose of providing capital improvements necessitated by development, including, but not limited to:

1) design and construction plan preparation;

2) permitting and fees;

3) land and materials acquisition, including any costs of acquisition or condemnation;

4) construction of improvements and structures;

5) design and construction of new drainage facilities required by the construction of capital improvements and structures;

6) relocating utilities required by the construction of improvements and structures;

7) landscaping;

8) construction management and inspection;

9) surveying, soils and material testing;

10) acquisition of capital equipment;

11) repayment of monies transferred or borrowed from any budgetary fund of the city which were used to fund any of the capital improvements as herein provided;

12) payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the city to fund capital improvements;

13) direct costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charges methodologies and providing an annual accounting of system development charges expenditures.

14) consulting costs for the review of alternative rates as provided for in Section (3)(D) of this ordinance.

(C) Prohibited Uses of System Development Charges. Funds on deposit in system development charge trust accounts shall not be used for:

1) any expenditure that would be classified as a routine maintenance or repair expense; or

2) costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

(D) Capital Improvements Authorized to be Financed by System Development Charges. Any capital improvement being funded wholly or in part with system development charges revenue shall be included in the city's capital improvement program. The capital improvement program shall:

1) list the specific capital improvement projects that may be funded with system development charges revenues;

2) provide the cost of each capital improvement project, and an estimate of the amounts of each revenue source, including system development charges, that will be used to fund each project;

3) provide the estimated timing of each capital improvement project; and

4) be updated at least once every five (5) years.

(E) Investment of Trust Account Revenue. Any funds on deposit in system development charges trust accounts which are not immediately necessary for expenditure shall be invested by the city. All income derived from such investments shall be deposited in the system development charges trust accounts and used as provided herein.

(F) Refunds of System Development Charges. System development charges shall be refunded in accordance with the following requirements:

1) An applicant or owner shall be eligible to apply for a full or partial refund if:

a) The building permit or development permit has expired and the development authorized by such permit is not complete;

b) An error was made in calculating the amount of the system development charges resulting in overpayment, and the error is discovered within three months of the date the SDC was paid. The amount of the refund will be limited to the amount collected in excess of the appropriate SDC.

c) The system development charges have not been expended or encumbered prior to the end of the fiscal year immediately following the ninth anniversary of the date upon which such charges were paid. For the purposes of this section, system development charges collected shall be deemed to be expended or encumbered on the basis of the first system development charges in shall be the first system development charges out.

2) The application for refund shall be filed with the City Administrator and contain the following:

a) The name and address of the applicant;

b) The location of the property which was the subject of the system development charges;

c) A notarized sworn statement that the petitioner is the then current owner of the property on behalf of which the system development charges were paid, including proof of ownership, such as a certified copy of the latest recorded deed;

d) The date the system development charges were paid;

e) A copy of the receipt of payment for the system development charges; and, if appropriate,

f) The date the building permit or development permit was issued and the date of expiration.

3) The application shall be filed within ninety (90) days of the expiration of the building permit or development permit or within ninety (90) days of the end of the fiscal year following the ninth anniversary of the date upon which the system development charges were paid. Failure to timely apply for a refund of the system development charges shall waive any right to a refund.

4) Within thirty (30) days from the date of receipt of a petition for refund, the City Administrator will advise the petitioner of the status of the request for refund, and if such request is valid, the system development charges shall be returned to the petitioner.

5) Refunds will not be granted based on a change in use of the property which results in a reduced impact on the city's capital facilities.

6) A building permit or development permit which is subsequently issued for a development on the same property which was the subject of a refund shall pay the systems development charges as required by Section (3).

(G) Annual Accounting Reports. The city shall prepare an annual report accounting for system development charges, including the total amount of system development charges revenue collected in each trust account, and the capital improvement projects that were funded.

(H) Challenge of Expenditures. Any citizen or other interested person may challenge an expenditure of system development charges revenues.

1) Such challenge shall be submitted, in writing, to the City Administrator for review within two years following the subject expenditure, and shall include the following information:

a) The name and address of the citizen or other interested person challenging the expenditure;

b) The amount of the expenditure, the project, payee or purpose, and the approximate date on which it was made; and

c) The reason why the expenditure is being challenged.

2) If the City Administrator determines that the expenditure was not made in accordance with the provisions of this ordinance and other relevant laws, a reimbursement of system development charges trust account revenues from other revenue sources shall be made within one year following the determination that the expenditures were not appropriate.

3) The City Administrator shall make written notification of the results of the expenditure review to the citizen or other interested person who requested the review with ten (10) days of completion of the review.

Section 5. **Severability.** If any clause, section, or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporate herein.

Section 6. **Repeal.** Ordinance No. 1842 shall be repealed at 11:59 p.m. on December 31, 1993.

Passed by the Council September 13, 1993 and approved by the Mayor September 16, 1993.

ORDINANCE NO. 2248

AN ORDINANCE ESTABLISHING A METHODOLOGY FOR TRAFFIC IMPACT FEES (TIF) SYSTEM DEVELOPMENT CHARGES; AND SETTING AN EFFECTIVE DATE.

[Whereas clauses.]

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions. The following definitions apply:

(A) "Applicant" shall mean the owner or other person who applies for a building permit or development permit.

(B) "Bancroft Bond" shall mean a bond issued by the city to finance a capital improvement in accordance with ORS 223.205 - 223.295.

(C) "Building" shall mean any structure, either temporary or permanent, built for the support, shelter or enclosure of persons, chattels or property of any kind. This term shall include tents, trailers, mobile homes or any vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.

(D) "Building Permit" shall mean an official document or certificate authorizing the construction or siting of any building. For purposes of this ordinance, the term "Building Permit" shall also include any construction or installation permits which may be required for those structures or buildings, such as a mobile home, that do not require a building permit in order to be occupied.

(E) "Capital Improvements" shall mean public facilities or assets used for transportation.

(F) "Citizen or Other Interested Person" shall mean any person who is a legal resident of the City of Woodburn as evidenced by registration as a voter in the city, or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within the city limits or is otherwise subject to the imposition of system development charges, as outlined in Section 3 of this ordinance.

(G) "City" shall mean the City of Woodburn, Oregon.

(H) "Credit" shall mean the amount of money by which the TIF SDC for a specific development may be reduced because of construction of eligible capital facilities as outlined in this ordinance.

(I) "Development" shall mean a building or other land construction, or **making a change in the use** of a structure or land, in a manner which increases the usage of any capital improvements or which will contribute to the need for additional or enlarged capital improvements.

(J) "Development Permit" shall mean an official document or certificate, other than a building permit, authorizing development.

(K) "Dwelling Unit" shall mean a building or a portion of a building designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for one family only.

(L) "Encumbered" shall mean monies committed by contract or purchase order in a manner that obligates the city to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of real property provided by a vendor, supplier, contractor or Owner.

(M) "Improvement Fee" shall mean a fee for costs associated with capital improvements to be constructed after the effective date of this ordinance. Notwithstanding anything in this ordinance to the contrary, it is an incurred charge or cost based upon the use of or the availability for use of the systems and capital improvements required to provide services and facilities necessary to meet the routine obligations of the use and ownership of property, and to provide for the public health and safety upon development.

(N) "Off-site" shall mean not located on or contiguous to property that is the subject of development approval.

(O) "On-site" shall mean located on or contiguous to property that is the subject of developmental approval.

(P) "Owner" shall mean the person holding legal title to the real property upon which development is to occur.

(Q) "Person" shall mean an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(R) "Prime Rate of Interest" shall mean the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks as posted in the Wall Street Journal.

(S) "Qualified Public Improvement" shall mean a capital improvement that is:

1) Required as a condition of development approval;

2) Identified in the adopted capital improvement plan (CIP);and either

3) a) Not located on or contiguous to property that is the subject of development approval; or

b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(T) "Right-of-Way" shall mean that portion of land that is dedicated for public use.

(U) "System Development Charge" shall mean an improvement fee assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit or building permit. System development charges are separate from and in addition to any applicable tax, assessment, fee in lieu of assessment, or other fee or charge provided by law or imposed as a condition of development.

(V) "Traffic Impact Fee" shall mean a system development charge for transportation capital facilities.

(W) "Transportation Impact Fee (TIF) Update" shall mean the report adopted pursuant to Section (3)(B), as amended and supplemented pursuant to Section (3)(H).

Section 2. Rules of Construction. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply:

(A) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

(B) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(C) Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; and use of the masculine gender shall include the feminine gender.

(D) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".

(E) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either...or", the conjunction shall be interpreted as follows:

1) "And" indicates that all the connected terms, conditions, provisions or events shall apply.

2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

3) "Either"...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(F) The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Section 3. Imposition of System Development Charges. System development charges are hereby imposed, subject to the following conditions:

(A) Development Subject to Charges. System development charges are imposed on all new development within the city for capital improvements for transportation . The system development charges shall be paid in addition to all other fees, charges and assessments due for development, and are intended to provide funds only for capital improvements necessitated by new development.

(B) Rates of Charges.

1) The city hereby adopts and incorporates by reference the report entitled "City of Woodburn Traffic Impact Fee (TIF) Update" report dated October 29, 1999, particularly the assumptions, conclusions and findings in such study as to the determination of anticipated costs of capital improvements required to accommodate growth and the rates for system development charges to reimburse the city for such capital improvements.

2) System development charges shall be imposed and calculated for the change in use, alternation, expansion or replacement of a building or dwelling unit if such change in use, alternation, expansion or replacement results in an increase in the use of capital improvements compared to the present use of the development. The amount of the system development charges to be paid shall be the difference between the rate for the proposed development and the rate that would be imposed for the development prior to the change in use, alternation, expansion or replacement.

3) The city shall, based upon the report referred to in subsection (1) above, adopt by resolution the amounts of system development charges.

4) An additional systems development charge may be assessed by the city if the demand placed on the city's capital facilities exceeds the amount initially estimated at the time systems development charges are paid. The additional charge shall be for the increased demand or for the demand above the underestimate, and it shall be based upon the fee that is in effect at the time the additional demand impact is determined, and not upon the fee structure that may have been in effect at the time the initial systems development charge was paid. This provision does not apply to single family or other residential units unless additional rental units are created.

5) Notwithstanding any other provision, the SDC rates adopted pursuant to this ordinance may on January 1st of each year, after the first year that the ordinance is effective, be adjusted by the City Administrator to account for changes in the costs of acquiring and constructing facilities. The adjustment factor shall be based on the change in average market value of all land in the city, according to the records of the County Tax Assessor, and the change in construction costs according to the engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:

Change in Average Market Value X 0.50
\+ Change in Construction Cost Index X 0.50
= System Development Charge Adjustment Factor

The System Development Charge Adjustment Factor shall be used to adjust the System Development Charge rates, unless they are otherwise adjusted by action of the City Council based on adoption of an updated methodology or capital improvements plan (master plan).

(C) Payment of Charges. Except as otherwise provided in this Section, applicants for building permits or development permits shall pay the applicable system development charges prior to the issuance of the permits by the city.

1) When the total amount due for Traffic Impact Fees exceeds $5,000 for existing buildings, or $25,000 for new buildings, the applicant may request an alternative payment arrangement to pay the fee in annual payments over a period not to exceed five years.

2) The Finance Director shall provide application and contract forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors. The interest to be charged for installment payments and for delinquent payment of such installments is initially established at the prime rate of interest plus 0.5 percent for new or existing buildings for which the amount due is $25,000 or more, and at the prime rate of interest plus 3.0 percent for existing buildings for which the amount due is between $5,000 and $25,000, but may be adjusted by the City Council by resolution.

3) An applicant for installment payments shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the property interest of the applicant is adequate to secure payment of the lien.

4) The City Administrator or his designee shall cause a report to be made of the amount of the Traffic Impact Fees, the dates on which the payments are due, the name of the owner, and the description of the parcel.

5) The City Recorder shall docket the lien in the lien docket. Except as otherwise expressly provided, from that time the city shall have first lien upon the described parcel for the amount of the Traffic Impact Fees, together with interest on the unpaid balance at the rate established by the City Council. The lien shall be enforceable in the manner provided in ORS Chapter 223.

6) Under no circumstances shall payment of the TIF or SDC fees exempt any development from complying with any and all standards, rules, and regulations required of the development as a condition of development approval. Specifically, development must meet all road standards, storm water retention requirements, and stormwater quality requirements intended to minimize the degradation of water quality resulting from development.

(D) Alternative Rate Calculation. Applicants may submit alternative rates for system development charges, subject to the following conditions:

1) In the event an applicant believes that the impact on city capital improvements resulting from a development is less than the fee established in Section (3) (B), the applicant may submit alternative system development charge rate calculations, accompanied by the alternative rate review fee established by resolution for this purpose, to the City Administrator. The city may hire a consultant to review the alternative system development charge rate calculations, and may pay the consulting fees from system development charges revenues.

2) The alternative system development charge rate calculations shall be based on data, information and assumptions contained in this ordinance and the adopted system development charges study or an independent source, provided that the independent source is a local study supported by a data base adequate for the conclusions contained in such study performed pursuant to a generally accepted methodology and based upon generally accepted standard sources of information relating to facilities planning, cost analysis and demographics.

3) If the city council determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates comply with the requirements of this section by using a generally accepted methodology, the alternative system development charges rates shall be paid in lieu of the rates set forth in Section (3)(B).

4) If the city council determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates do not comply with the requirements of this section or were not calculated by a generally accepted methodology, then the city council shall provide to the applicant (by certified mail, return receipt requested) written notification of the rejection of the alternative system development charges rates and the reason therefor.

5) Any applicant who has submitted a proposed alternative system development charges rate pursuant to this section and desires the immediate issuance of a building permit or development permit shall pay the applicable system development charges rates pursuant to Section (3)(B). Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any right of review. Any difference between the amount paid and the amount due, as determined by the city council, shall be refunded to the applicant.

(E) Exemptions. The following development shall be exempt from payment of the system development charges:

1) Alternations, expansion or replacement of an existing dwelling unit where no additional dwelling units are created.

2) The construction of accessory buildings or structures which will not create additional dwelling units and which do not create additional demands on the city's capital improvements.

3) The issuance of a permit for a mobile home on which applicable system development charges have previously been made as documented by receipts issued by the city for such prior payment.

(F) Credits for Developer Contributions of Qualified Public Improvements. The city shall grant a credit, not to exceed 100% of the applicable TIF SDC, against the system development charges imposed pursuant to Section (3)(A) and (B) for the donation of land as permitted by Ordinance 1807, or for the construction of any qualified public improvements. Such land donation and construction shall be subject to the approval of the city.

1) The amount of developer contribution credit to be applied shall be determined according to the following standards of valuation:

a) The value of donated lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser based upon comparable sales of similar property between unrelated parties in a bargaining transaction; and

b) The cost of anticipated construction of qualified public improvements shall be based upon cost estimates certified by a professional architect or engineer.

2) Prior to issuance of a building permit or development permit, the applicant shall submit to the City Administrator a proposed plan and estimate of cost for contributions of qualified public improvements. The proposed plan and estimate shall include:

a) a designation of the development for which the proposed plan is being submitted.

b) a legal description of any land proposed to be donated pursuant to Chapter 39 of the Woodburn Zoning Ordinance, Ordinance 1807, and a written appraisal prepared in conformity with subsection (1)(a) of this section;

c) a list of the contemplated capital improvements contained within the plan;

d) an estimate of proposed construction costs certified by a professional architect or engineer; and

e) a proposed time schedule for completion of the proposed plan.

3) The City Administrator shall determine if the proposed qualified public improvement is:

a) Required as a condition of development approval;

b) Identified in the adopted capital improvement plan (CIP);and either

c) i) Not located on or contiguous to property that is the subject of development approval; or

ii) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related

4) The decision of the City Administrator as to whether to accept the proposed plan of contribution and the value of such contribution shall be in writing and issued within fifteen (15) working days of the review. A copy shall be provided to the applicant.

5) A proposed improvement which does not meet all three (3) of the criteria included in Section 3(F)(3) above shall not be considered a qualified public improvement and the city is not required ORS 223.297 - 223.314 to provide a credit for such an improvement. However, the city shall grant a credit, in an amount not to exceed fifty percent (50%) of the total amount of the applicable TIF SDC, for certain other contributions of capital facilities under the following conditions:

a) The capital facilities being contributed must exceed the local street standard (for TIF) required for the specific type of development (i.e., residential, industrial, etc.); and

b) Only the value of the contribution which exceeds the local street standard (for TIF) required for the specific type of development (i.e., residential, industrial, etc.) shall be considered when calculating the credit; and

c) Donations for on-site right-of-way are not eligible for the credit.

6) Any applicant who submits a proposed plan pursuant to this section and desires the immediate issuance of a building permit or development permit, shall pay the applicable system development charges. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights. Any difference between the amount paid and the amount due, as determined by the City Administrator, shall be refunded to the applicant. In no event shall a refund by city under this subsection exceed the amount originally paid by the applicant.

(G) Appeals and Review Hearings.

1) An applicant who is required to pay system development charges shall have the right to request a hearing to review the ITE land-use category selected by the City Engineer as the basis for the TIF, or the denial by the City Administrator of a proposed credit for contribution of qualified public improvements pursuant to Section (3)(F).

2) Such hearing shall be requested by the applicant within fifteen (15) days of the date of first receipt of the denial by the City Administrator. Failure to request a hearing within the time provided shall be deemed a waiver of such right.

3) The request for hearing shall be filed with the City Administrator and shall contain the following:

a) The name and address of the applicant;

b) The legal description of the property in question;

c) If issued, the date the building permit or development permit was issued;

d) A brief description of the nature of the development being undertaken pursuant to the building permit or development permit;

e) If paid, the date the system development charges were paid; and

f) A statement of the reasons why the applicant is requesting the hearing.

4) Upon receipt of such request, the City Administrator shall schedule a hearing before the city council at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.

5) Such hearing shall be before the city council and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedures and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

6) Any applicant who requests a hearing pursuant to this section and desires the immediate issuance of a building permit or development permit shall pay prior to or at the time the request for hearing is filed the applicable system development charges pursuant to Section (3)(B). Said payment shall be deemed paid under "protest" and shall not construed as a waiver of any review rights.

7) An applicant may request a hearing under this section without paying the applicable system development charges, but no building permit or development permit shall be issued until such system development charges are paid in the amount initially calculated or the amount approved upon completion of the review provided in this section.

(H) Review of Study and Rates. This ordinance and the Traffic Impact Fee System Development Charge Methodology Report shall be reviewed at least once every five (5) years. The review shall consider new estimates of population and other socioeconomic data, changes in the cost of construction and land acquisition, and adjustments to the assumptions, conclusions or findings set forth in the report adopted by Section (3)(B). The purpose of this review is to evaluate and revise, if necessary, the rates of the system development charges to assure that they do not exceed the reasonably anticipated costs of the city's capital improvements. In the event the review of the ordinance or the report alters or changes the assumptions, conclusions and findings of the report, or alters or changes the amount of system development charges, the report adopted by reference in Section (3)(B) shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews and Section (3)(B) shall be amended to adopt by reference such updated reports.

Section 4. Receipt and Expenditure of System Development Charges.

(A) Trust Accounts. The City hereby establishes a separate trust account for each type of system development charge to be designated as the "Transportation Impact Fee" which shall be maintained separate and apart from all other accounts of the city. All system development charge payments shall be deposited into the appropriate trust account immediately upon receipt.

(B) Use of System Development Charges. The monies deposited into the trust accounts shall be used solely for the purpose of providing capital improvements necessitated by development, including, but not limited to:

1) design and construction plan preparation;

2) permitting and fees;

3) land and materials acquisition, including any costs of acquisition or condemnation;

4) construction of improvements and structures;

5) design and construction of new drainage facilities required by the construction of capital improvements and structures;

6) relocating utilities required by the construction of improvements and structures;

7) landscaping;

8) construction management and inspection;

9) surveying, soils and material testing;

10) acquisition of capital equipment;

11) repayment of monies transferred or borrowed from any budgetary fund of the city which were used to fund any of the capital improvements as herein provided;

12) payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the city to fund capital improvements;

13) direct costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charges methodologies and providing an annual accounting of system development charges expenditures.

14) consulting costs for the review of alternative rates as provided for in Section (3)(D) of this ordinance.

(C) Prohibited Uses of System Development Charges. Funds on deposit in system development charge trust accounts shall not be used for:

1) any expenditure that would be classified as a routine maintenance or repair expense; or

2) costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

(D) Capital Improvements Authorized to be Financed by System Development Charges. Any capital improvement being funded wholly or in part with system development charges revenue shall be included in the city's capital improvement program. The capital improvement program shall:

1) list the specific capital improvement projects that may be funded with system development charges revenues;

2) provide the cost of each capital improvement project, and an estimate of the amounts of each revenue source, including system development charges, that will be used to fund each project;

3) provide the estimated timing of each capital improvement project; and

4) be updated at least once every five (5) years.

(E) Investment of Trust Account Revenue. Any funds on deposit in system development charges trust accounts which are not immediately necessary for expenditure shall be invested by the city. All income derived from such investments shall be deposited in the system development charges trust accounts and used as provided herein.

(F) Refunds of System Development Charges. System development charges shall be refunded in accordance with the following requirements:

1) An applicant or owner shall be eligible to apply for a full or partial refund if:

a) The building permit or development permit has expired and the development authorized by such permit is not complete;

b) An error was made in calculating the amount of the system development charges resulting in overpayment, and the error is discovered within three months of the date the SDC was paid. The amount of the refund will be limited to the amount collected in excess of the appropriate SDC.

c) The system development charges have not been expended or encumbered prior to the end of the fiscal year immediately following the ninth anniversary of the date upon which such charges were paid. For the purposes of this section, system development charges collected shall be deemed to be expended or encumbered on the basis of the first system development charges in shall be the first system development charges out.

2) The application for refund shall be filed with the City Administrator and contain the following:

a) The name and address of the applicant;

b) The location of the property which was the subject of the system development charges;

c) A notarized sworn statement that the petitioner is the then current owner of the property on behalf of which the system development charges were paid, including proof of ownership, such as a certified copy of the latest recorded deed;

d) The date the system development charges were paid;

e) A copy of the receipt of payment for the system development charges; and, if appropriate,

f) The date the building permit or development permit was issued and the date of expiration.

3) The application shall be filed within ninety (90) days of the expiration of the building permit or development permit or within ninety (90) days of the end of the fiscal year following the ninth anniversary of the date upon which the system development charges were paid. Failure to timely apply for a refund of the system development charges shall waive any right to a refund.

4) Within thirty (30) days from the date of receipt of a petition for refund, the City Administrator will advise the petitioner of the status of the request for refund, and if such request is valid, the system development charges shall be returned to the petitioner.

5) Refunds will not be granted based on a change in use of the property which results in a reduced impact on the city's capital facilities.

6) A building permit or development permit which is subsequently issued for a development on the same property which was the subject of a refund shall pay the systems development charges as required by Section (3).

(G) Annual Accounting Reports. The city shall prepare an annual report accounting for system development charges, including the total amount of system development charges revenue collected in each trust account, and the capital improvement projects that were funded.

(H) Challenge of Expenditures. Any citizen or other interested person may challenge an expenditure of system development charges revenues.

1) Such challenge shall be submitted, in writing, to the City Administrator for review within two years following the subject expenditure, and shall include the following information:

a) The name and address of the citizen or other interested person challenging the expenditure;

b) The amount of the expenditure, the project, payee or purpose, and the approximate date on which it was made; and

c) The reason why the expenditure is being challenged.

2) If the City Administrator determines that the expenditure was not made in accordance with the provisions of this ordinance and other relevant laws, a reimbursement of system development charges trust account revenues from other revenue sources shall be made within one year following the determination that the expenditures were not appropriate.

3) The City Administrator shall make written notification of the results of the expenditure review to the citizen or other interested person who requested the review with ten (10) days of completion of the review.

Section 5. **Severability**. If any clause, section, or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporate herein.

Section 6. This ordinance shall be legally effective on January 1, 2000.

Passed by the Council and approved by the Mayor November 23, 1999.

ORDINANCE NO. 2250

AN ORDINANCE ESTABLISHING A METHODOLOGY FOR PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGES; AND SETTING AN EFFECTIVE DATE.

[Whereas clauses.]

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions. The following definitions apply:

(A) "Applicant" shall mean the owner or other person who applies for a building permit or development permit.

(B) "Bancroft Bond" shall mean a bond issued by the city to finance a capital improvement in accordance with ORS 223.205 - 223.295.

(C) "Building" shall mean any structure, either temporary or permanent, built for the support, shelter or enclosure of persons, chattels or property of any kind. This term shall include tents, trailers, mobile homes or any vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.

(D) "Building Permit" shall mean an official document or certificate authorizing the construction or siting of any building. For purposes of this ordinance, the term "Building Permit" shall also include any construction or installation permits which may be required for those structures or buildings, such as a mobile home, that do not require a building permit in order to be occupied.

(E) "Capital Improvements" shall mean public facilities or assets used for Parks and Recreation.

(F) "Citizen or Other Interested Person" shall mean any person who is a legal resident of the City of Woodburn as evidenced by registration as a voter in the city, or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within the city limits or is otherwise subject to the imposition of system development charges, as outlined in Section 3 of this ordinance.

(G) "City" shall mean the City of Woodburn, Oregon.

(H) "Credit" shall mean the amount of money by which the SDC for a specific development may be reduced because of construction of eligible capital facilities as outlined in this ordinance.

(I) "Development" shall mean a building or other land construction, or **making a change in the use** of a structure or land, in a manner which increases the usage of any capital improvements or which will contribute to the need for additional or enlarged capital improvements.

(J) "Development Permit" shall mean an official document or certificate, other than a building permit, authorizing development.

(K) "Dwelling Unit" shall mean a building or a portion of a building designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for one family only.

(L) "Encumbered" shall mean monies committed by contract or purchase order in a manner that obligates the city to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of real property provided by a vendor, supplier, contractor or Owner.

(M) "Improvement Fee" shall mean a fee for costs associated with capital improvements to be constructed after the effective date of this ordinance. Notwithstanding anything in this ordinance to the contrary, it is an incurred charge or cost based upon the use of or the availability for use of the systems and capital improvements required to provide services and facilities necessary to meet the routine obligations of the use and ownership of property, and to provide for the public health and safety upon development.

(N) "Off-site" shall mean not located on or contiguous to property that is the subject of development approval.

(O) "On-site" shall mean located on or contiguous to property that is the subject of developmental approval.

(P) "Owner" shall mean the person holding legal title to the real property upon which development is to occur.

(Q) "Person" shall mean an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(R) "Prime Rate of Interest" shall mean the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks as posted in the Wall Street Journal.

(S) "Qualified Public Improvement" shall mean a capital improvement that is:

1) Required as a condition of development approval;

2) Identified in the adopted capital improvement plan (CIP);and either

3) a) Not located on or contiguous to property that is the subject of development approval; or

b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related

(T) "Right-of-Way" shall mean that portion of land that is dedicated for public use.

(U) "System Development Charge" shall mean an improvement fee assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit or building permit. System development charges are separate from and in addition to any applicable tax, assessment, fee in lieu of assessment, or other fee or charge provided by law or imposed as a condition of development.

(V) "Parks and Recreation System Development Charges Executive Summary, Methodology, and Rate Study Update" shall mean the report adopted pursuant to Section (3)(B), as amended and supplemented pursuant to Section (3)(H).

Section 2. Rules of Construction. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply:

(A) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

(B) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(C) Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; and use of the masculine gender shall include the feminine gender.

(D) The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".

(E) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either...or", the conjunction shall be interpreted as follows:

1) "And" indicates that all the connected terms, conditions, provisions or events shall apply.

2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

3) "Either"...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(F) The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Section 3. Imposition of System Development Charges. System development charges are hereby imposed, subject to the following conditions:

(A) Development Subject to Charges. System development charges are imposed on all new development within the city for capital improvements for transportation . The system development charges shall be paid in addition to all other fees, charges and assessments due for development, and are intended to provide funds only for capital improvements necessitated by new development.

(B) Rates of Charges.

1) The city hereby adopts and incorporates by reference the report entitled "Parks and Recreation Systems Development Charges Executive Summary, Methodology, and Rate Study Update" dated September 30, 1999, particularly the assumptions, conclusions and findings in such study as to the determination of anticipated costs of capital improvements required to accommodate growth and the rates for system development charges to reimburse the city for such capital improvements.

2) System development charges shall be imposed and calculated for the change in use, alternation, expansion or replacement of a building or dwelling unit if such change in use, alternation, expansion or replacement results in an increase in the use of capital improvements compared to the present use of the development. The amount of the system development charges to be paid shall be the difference between the rate for the proposed development and the rate that would be imposed for the development prior to the change in use, alternation, expansion or replacement.

3) The city shall, based upon the report referred to in subsection (1) above, adopt by resolution the amounts of system development charges.

4) An additional systems development charge may be assessed by the city if the demand placed on the city's capital facilities exceeds the amount initially estimated at the time systems development charges are paid. The additional charge shall be for the increased demand or for the demand above the underestimate, and it shall be based upon the fee that is in effect at the time the additional demand impact is determined, and not upon the fee structure that may have been in effect at the time the initial systems development charge was paid. This provision does not apply to single family or other residential units unless additional rental units are created.

5) Notwithstanding any other provision, the SDC rates adopted pursuant to this ordinance may on January 1st of each year, after the first year that the ordinance is effective, be adjusted by the City Administrator to account for changes in the costs of acquiring and constructing facilities. The adjustment factor shall be based on the change in average market value of all land in the city, according to the records of the County Tax Assessor, and the change in construction costs according to the engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:

Change in Average Market Value X 0.50
\+ Change in Construction Cost Index X 0.50
= System Development Charge Adjustment Factor

The System Development Charge Adjustment Factor shall be used to adjust the System Development Charge rates, unless they are otherwise adjusted by action of the City Council based on adoption of an updated methodology or capital improvements plan (master plan).

(C) Payment of Charges. Applicants for building permits or development permits shall pay the applicable system development charges prior to the issuance of the permits by the city.

(D) Alternative Rate Calculation. Applicants may submit alternative rates for system development charges, subject to the following conditions:

1) In the event an applicant believes that the impact on city capital improvements resulting from a development is less than the fee established in Section (3) (B), the applicant may submit alternative system development charge rate calculations, accompanied by the alternative rate review fee established by resolution for this purpose, to the City Administrator. The city may hire a consultant to review the alternative system development charge rate calculations, and may pay the consulting fees from system development charges revenues.

2) The alternative system development charge rate calculations shall be based on data, information and assumptions contained in this ordinance and the adopted system development charges study or an independent source, provided that the independent source is a local study supported by a data base adequate for the conclusions contained in such study performed pursuant to a generally accepted methodology and based upon generally accepted standard sources of information relating to facilities planning, cost analysis and demographics.

3) If the city council determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates comply with the requirements of this section by using a generally accepted methodology, the alternative system development charges rates shall be paid in lieu of the rates set forth in Section (3)(B).

4) If the city council determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates do not comply with the requirements of this section or were not calculated by a generally accepted methodology, then the city council shall provide to the applicant (by certified mail, return receipt requested) written notification of the rejection of the alternative system development charges rates and the reason therefor.

5) Any applicant who has submitted a proposed alternative system development charges rate pursuant to this section and desires the immediate issuance of a building permit or development permit shall pay the applicable system development charges rates pursuant to Section (3)(B). Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any right of review. Any difference between the amount paid and the amount due, as determined by the city council, shall be refunded to the applicant.

E) Exemptions. The following development shall be exempt from payment of the system development charges:

1) Alternations, expansion or replacement of an existing dwelling unit where no additional dwelling units are created.

2) The construction of accessory buildings or structures which will not create additional dwelling units and which do not create additional demands on the city's capital improvements.

3) The issuance of a permit for a mobile home on which applicable system development charges have previously been made as documented by receipts issued by the city for such prior payment.

(F) Credits for Developer Contributions of Qualified Public Improvements. The city shall grant a credit, not to exceed 100% of the applicable Parks and Recreation SDC, against the system development charges imposed pursuant to Section (3)(A) and (B) for the donation of land as permitted by Ordinance 1807, or for the construction of any qualified public improvements. Such land donation and construction shall be subject to the approval of the city.

1) The amount of developer contribution credit to be applied shall be determined according to the following standards of valuation:

a) The value of donated lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser based upon comparable sales of similar property between unrelated parties in a bargaining transaction; and

b) The cost of anticipated construction of qualified public improvements shall be based upon cost estimates certified by a professional architect or engineer.

2) Prior to issuance of a building permit or development permit, the applicant shall submit to the City Administrator a proposed plan and estimate of cost for contributions of qualified public improvements. The proposed plan and estimate shall include:

a) a designation of the development for which the proposed plan is being submitted.

b) a legal description of any land proposed to be donated pursuant to Chapter 39 of the Woodburn Zoning Ordinance, Ordinance 1807, and a written appraisal prepared in conformity with subsection (1)(a) of this section;

c) a list of the contemplated capital improvements contained within the plan;

d) an estimate of proposed construction costs certified by a professional architect or engineer; and

e) a proposed time schedule for completion of the proposed plan.

3) The City Administrator shall determine if the proposed qualified public improvement is:

a) Required as a condition of development approval;

b) Identified in the adopted capital improvement plan (CIP);and either

c) i) Not located on or contiguous to property that is the subject of development approval; or

ii) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related

4) The decision of the City Administrator as to whether to accept the proposed plan of contribution and the value of such contribution shall be in writing and issued within fifteen (15) working days of the review. A copy shall be provided to the applicant.

5) A proposed improvement which does not meet all three (3) of the criteria included in Section 3(F)(3) above shall not be considered a qualified public improvement and the city is not required ORS 223.297 - 223.314 to provide a credit for such an improvement. However, the city shall grant a credit, in an amount not to exceed fifty percent (50%) of the total amount of the applicable Parks and Recreation SDC, for certain other contributions of capital facilities under the following conditions:

a) The capital facilities being contributed must exceed the city standard required for the specific type of development (i.e., residential, industrial, etc.); and

b) Only the value of the contribution which exceeds the city standard required for the specific type of development (i.e., residential, industrial, etc.) shall be considered when calculating the credit; and

6) Any applicant who submits a proposed plan pursuant to this section and desires the immediate issuance of a building permit or development permit, shall pay the applicable system development charges. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights. Any difference between the amount paid and the amount due, as determined by the City Administrator, shall be refunded to the applicant. In no event shall a refund by city under this subsection exceed the amount originally paid by the applicant.

(G) Appeals and Review Hearings.

1) An applicant who is required to pay system development charges shall have the right to request a hearing to review the denial by the City Administrator of a proposed credit for contribution of qualified public improvements pursuant to Section (3)(F).

2) Such hearing shall be requested by the applicant within fifteen (15) days of the date of first receipt of the denial by the City Administrator. Failure to request a hearing within the time provided shall be deemed a waiver of such right.

3) The request for hearing shall be filed with the City Administrator and shall contain the following:

a) The name and address of the applicant;

b) The legal description of the property in question;

c) If issued, the date the building permit or development permit was issued;

d) A brief description of the nature of the development being undertaken pursuant to the building permit or development permit;

e) If paid, the date the system development charges were paid; and

f) A statement of the reasons why the applicant is requesting the hearing.

4) Upon receipt of such request, the City Administrator shall schedule a hearing before the city council at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.

5) Such hearing shall be before the city council and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedures and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

6) Any applicant who requests a hearing pursuant to this section and desires the immediate issuance of a building permit or development permit shall pay prior to or at the time the request for hearing is filed the applicable system development charges pursuant to Section (3)(B). Said payment shall be deemed paid under "protest" and shall not construed as a waiver of any review rights.

7) An applicant may request a hearing under this section without paying the applicable system development charges, but no building permit or development permit shall be issued until such system development charges are paid in the amount initially calculated or the amount approved upon completion of the review provided in this section.

(H) Review of Study and Rates. This ordinance and the Parks and Recreation System Development Charges Executive Summary, Methodology, and Rate Study shall be reviewed at least once every five (5) years. The review shall consider new estimates of population and other socioeconomic data, changes in the cost of construction and land acquisition, and adjustments to the assumptions, conclusions or findings set forth in the report adopted by Section (3)(B). The purpose of this review is to evaluate and revise, if necessary, the rates of the system development charges to assure that they do not exceed the reasonably anticipated costs of the city's capital improvements. In the event the review of the ordinance or the report alters or changes the assumptions, conclusions and findings of the report, or alters or changes the amount of system development charges, the report adopted by reference in Section (3)(B) shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews and Section (3)(B) shall be amended to adopt by reference such updated reports.

Section 4. Receipt and Expenditure of System Development Charges.

(A) Trust Accounts. The City hereby establishes a separate trust account for each type of system development charge to be designated as the “Parks and Recreation SDC” which shall be maintained separate and apart from all other accounts of the city. All system development charge payments shall be deposited into the appropriate trust account immediately upon receipt.

(B) Use of System Development Charges. The monies deposited into the trust accounts shall be used solely for the purpose of providing capital improvements necessitated by development, including, but not limited to:

1) design and construction plan preparation;

2) permitting and fees;

3) land and materials acquisition, including any costs of acquisition or condemnation;

4) construction of improvements and structures;

5) design and construction of new drainage facilities required by the construction of capital improvements and structures;

6) relocating utilities required by the construction of improvements and structures;

7) landscaping;

8) construction management and inspection;

9) surveying, soils and material testing;

10) acquisition of capital equipment;

11) repayment of monies transferred or borrowed from any budgetary fund of the city which were used to fund any of the capital improvements as herein provided;

12) payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the city to fund capital improvements;

13) direct costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charges methodologies and providing an annual accounting of system development charges expenditures.

14) consulting costs for the review of alternative rates as provided for in Section (3)(D) of this ordinance.

(C) Prohibited Uses of System Development Charges. Funds on deposit in system development charge trust accounts shall not be used for:

1) any expenditure that would be classified as a routine maintenance or repair expense; or

2) costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

(D) Capital Improvements Authorized to be Financed by System Development Charges. Any capital improvement being funded wholly or in part with system development charges revenue shall be included in the city's capital improvement program. The capital improvement program shall:

1) list the specific capital improvement projects that may be funded with system development charges revenues;

2) provide the cost of each capital improvement project, and an estimate of the amounts of each revenue source, including system development charges, that will be used to fund each project;

3) provide the estimated timing of each capital improvement project; and

4) be updated at least once every five (5) years.

(E) Investment of Trust Account Revenue. Any funds on deposit in system development charges trust accounts which are not immediately necessary for expenditure shall be invested by the city. All income derived from such investments shall be deposited in the system development charges trust accounts and used as provided herein.

(F) Refunds of System Development Charges. System development charges shall be refunded in accordance with the following requirements:

1) An applicant or owner shall be eligible to apply for a full or partial refund if:

a) The building permit or development permit has expired and the development authorized by such permit is not complete;

b) An error was made in calculating the amount of the system development charges resulting in overpayment, and the error is discovered within three months of the date the SDC was paid. The amount of the refund will be limited to the amount collected in excess of the appropriate SDC.

c) The system development charges have not been expended or encumbered prior to the end of the fiscal year immediately following the ninth anniversary of the date upon which such charges were paid. For the purposes of this section, system development charges collected shall be deemed to be expended or encumbered on the basis of the first system development charges in shall be the first system development charges out.

2) The application for refund shall be filed with the City Administrator and contain the following:

a) The name and address of the applicant;

b) The location of the property which was the subject of the system development charges;

c) A notarized sworn statement that the petitioner is the then current owner of the property on behalf of which the system development charges were paid, including proof of ownership, such as a certified copy of the latest recorded deed;

d) The date the system development charges were paid;

e) A copy of the receipt of payment for the system development charges; and, if appropriate,

f) The date the building permit or development permit was issued and the date of expiration.

3) The application shall be filed within ninety (90) days of the expiration of the building permit or development permit or within ninety (90) days of the end of the fiscal year following the ninth anniversary of the date upon which the system development charges were paid. Failure to timely apply for a refund of the system development charges shall waive any right to a refund.

4) Within thirty (30) days from the date of receipt of a petition for refund, the City Administrator will advise the petitioner of the status of the request for refund, and if such request is valid, the system development charges shall be returned to the petitioner.

5) Refunds will not be granted based on a change in use of the property which results in a reduced impact on the city's capital facilities.

6) A building permit or development permit which is subsequently issued for a development on the same property which was the subject of a refund shall pay the systems development charges as required by Section (3).

(G) Annual Accounting Reports. The city shall prepare an annual report accounting for system development charges, including the total amount of system development charges revenue collected in each trust account, and the capital improvement projects that were funded.

(H) Challenge of Expenditures. Any citizen or other interested person may challenge an expenditure of system development charges revenues.

1) Such challenge shall be submitted, in writing, to the City Administrator for review within two years following the subject expenditure, and shall include the following information:

a) The name and address of the citizen or other interested person challenging the expenditure;

b) The amount of the expenditure, the project, payee or purpose, and the approximate date on which it was made; and

c) The reason why the expenditure is being challenged.

2) If the City Administrator determines that the expenditure was not made in accordance with the provisions of this ordinance and other relevant laws, a reimbursement of system development charges trust account revenues from other revenue sources shall be made within one year following the determination that the expenditures were not appropriate.

3) The City Administrator shall make written notification of the results of the expenditure review to the citizen or other interested person who requested the review with ten (10) days of completion of the review.

Section 5. **Severability**. If any clause, section, or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporate herein.

Section 6. **Effective Date.** This ordinance shall be legally effective on January 1, 2000.

Passed by the Council and approved by the Mayor November 23, 1999.